

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

July 7, 2010

This meeting was called to order at 6:01 p.m. by Vice-Chairperson, Russell Moore, at 3600 Constitution Boulevard, West Valley City, Utah.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Sioeli Uluakiola, Scott Spendlove, and Russell Moore

Those Absent: Necia Christensen and Sandy Naegle

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman and Nichole Camac

WEST VALLEY CITY LEGAL DEPARTMENT

None present

AUDIENCE:

Approximately two (2) people were in the audience.

B-3-2010
Brace Variance
3692 South Chula Drive
R-1-8 Zone

REQUEST:

Mr. Wayne Brace is requesting consideration for a variance from Section **7-6-305(3)** of the West Valley City Code. This section requires that the minimum rear yard setback in the R-1-8 zone be 15 feet for homes constructed prior to July 1986. The applicant is requesting a variance of 3 feet in preparation to construct an addition to the existing dwelling.

BACKGROUND:

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- ☐ The subject property is known as lot 19 of the Copper Hill Heights No. 12 Subdivision. This subdivision was recorded with the Salt Lake County Recorder's Office in June 1979. According to County records, the existing single family dwelling was constructed in 1979. The property is currently zoned R-1-8.
- ☐ Recently, the applicant approached the City about the possibility of doing an addition to the existing single family dwelling. The purpose for this addition would be to provide enclosed parking for a recreational vehicle. The addition would adjoin the existing two car garage on the north side of the dwelling.
- ☐ Staff explained that the side setback adjacent to the north property line would not be a problem. However, the proposed rear setback of 12 feet would be three feet shy of meeting the ordinance. Generally, the rear setback in an R-1-8 zone is 20 feet. However, for homes constructed prior to July 1986, the rear setback is allowed at 15 feet.
- ☐ Mr. Brace explained that due to the shallow depth of this lot along the north side he could not meet the 15-foot requirement. Staff reviewed the recorded plat and noted that the distance from front of lot to back is 73.56 feet. Staff explained that the shallow depth at this point on the property could be considered a hardship and further explained the variance criteria. After evaluating the options, Mr. Brace decided to pursue a variance.
- ☐ The property in question is unique due to the curvature of Chula Drive. The south property line runs nearly 44 feet longer than the north. The applicant has visited with adjacent neighbors and has submitted a building petition. Staff has included this petition along with the applicants and responses to the variance criteria.
- ☐ An existing sewer and irrigation easement are located along the north side of the property. This easement was recorded as part of the plat in 1979. Although these may no

longer be in use, or may have been abandoned, the applicant would need to coordinate this issue if the Board approves the variance.

ORDINANCE SUMMARY:

Section 7-6-305(3) of the West Valley City Land Use Development and Management Act requires the rear yard setback in the R-1-8 zone to be 15 feet.

The West Valley City Land Use Development and Management Act Section 7-18-107 outlines the standards or conditions for approving a variance. The Board of Adjustment may grant a variance only if:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.

According to Williams, American Land Planning Law (Volume 5, "Criteria for the Validity of Variances", pages 131 and 133 et.seq.) there is a presumption against granting a variance and it can only be granted if each of the standards are met.

In Wells v. Board of Adjustment of Salt Lake City, the Utah Court of Appeals held that a Board's decision to grant a variance would be illegal if the required statutory findings were not made.

Steve Lehman presented the application.

Applicant:
Wayne Brace
3692 South Chula Drive

The applicant, Wayne Brace, stated that he would like to remove and repair the existing cement on his property and include a garage for the storage of his RV's. Mr. Brace indicated that he has lived in his home for 30 years and has been a good neighbor. He

stated that adding a garage to his property would ensure his possessions are kept safe and will also help keep his property looking nice and organized. Mr. Brace explained that the way his lot is situated it would be very difficult to construct a garage. Sioeli Uluakiola asked if a detached garage on the north side of the property would be a problem. Steve Lehman replied that different requirements would come into play for a detached garage of this size and more variances would be required.

Mr. Lehman stated that he has received four calls from neighboring residents who all wished to express their support for Mr. Brace's request.

Mr. Brace read the letter he provided in the Board of Adjustment packet that discussed the 5 criteria required by State law for a variance.

Vice- Chairperson Moore called for a motion.

Motion

Mr. Uluakiola moved for approval of B-3-2010 based on the criteria that was addressed by the applicant and consideration of neighborhood comments and information that was presented in the analysis.

Mr. Spendlove seconded the motion.

Discussion:

Mr. Uluakiola stated that the lot is shaped very oddly and he feels that building a garage would be difficult and awkward for the applicant due to the configuration of the property and the way the home was built on it.

Mr. Spendlove stated that he agrees the lot is awkwardly shaped. He indicated that his area of concern is that he is unsure if there has been a violation of a substantial property right. He questioned whether a garage or carport of this size and dimension is a substantial property right.

Mr. Moore stated that he feels the property right being denied to the applicant is the right to inside parking and the security of possessions. He added the main concern is the awkward shape of the lot and the odd positioning of the home on the property. He stated that if the lot had been shaped more traditionally, Mr. Brace would not need a variance. He added that the applicant has provided a petition signed by 12 neighbors and City staff has not received any opposition from residents.

Criteria Discussion:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

- Due to the alignment of Chula Drive, a large portion along the north side of the lot is reduced in depth. This is peculiar to the applicant's lot in this subdivision and none other. The shallow depth along this side of the lot would not allow for an R.V. garage.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
 - The north side of the lot is 40 feet less than the south side of the lot. The subdivision plat indicated this lot is the only one with this much taken out by the street. Lot 1 is similar, but it has a depth of 87 feet. There are several properties in the neighborhood that are wider than this lot.
 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
 - Allowing the variance will provide the applicant the opportunity to house his R.V. out of sight which will help keep the property looking orderly and maintain a view that neighbors and WVC would appreciate. There are others in the neighborhood that have built attached or detached structures for this purpose.
 4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
 - The variance will not affect the general plan. The construction of the addition will blend in with the home and will have a building permit. The enclosure will allow the applicant to store his R.V. and other miscellaneous items out of the public view, thus improving the quality and look of the neighborhood.
 5. The spirit of the zoning ordinance is observed and substantial justice done.
 - All requirements and specifications required by the City will be followed and met by a licensed contractor and the applicant.

There being no further discussion regarding this application, Vice- Chairperson Moore called for a vote on the motion.

Motion

Mr. Uluakiola moved for approval of B-3-2010 based on the criteria that was addressed by the applicant and consideration of neighborhood comments and information that was presented in the analysis.

Mr. Spendlove seconded the motion.

A roll call was taken.

Mr. Uluakiola	yes
Mr. Moore	yes
Mr. Spendlove	no
Ms. Naegle	AB
Mr. Farnsworth	AB
Mrs. Christensen	AB

Motion fails – majority vote

**Members of the Board of Adjustment were unable to reach a consensus.
B-3-2010 was continued.**

OTHER

The Board of Adjustment Public Hearing minutes for **March 3, 2010** were **continued**.

There being no further business the meeting adjourned at 6:31 p.m.

Nichole Camac, Administrative Assistant